

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
EASTERN DIVISION**

<b>ROBERT C. KELLER, et al.</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>CIVIL ACTION NO.: 3:07cv-1098-WKW</b>
	)	
<b>MACON COUNTY GREYHOUND PARK, INC.</b>	)	
	)	
<b>Defendant.</b>	)	

**DEFENDANT'S INITIAL RULE 26 DISCLOSURES**

**PRELIMINARY STATEMENT**

Defendant Macon County Greyhound Park, Inc. is in the continuous process of investigating the allegations of facts of this case. Defendant is conducting discovery and analysis of the same and is preparing for trial. Accordingly, this disclosure statement is provided pursuant to Rule 26 of the Federal Rules of Civil Procedure and the Local Rules of this Court without prejudice to Defendant's rights to introduce at trial any evidence that is subsequently discovered relating to proof of presently known facts, and to produce and introduce all evidence whenever discovered relating to the proof of subsequently discovered material facts. Macon County Greyhound Park, Inc. reserves the right to refer to, conduct discovery with reference to, or offer into evidence at the time of trial any and all facts, documents and things notwithstanding the initial statements herein. Macon County Greyhound Park, Inc. further reserves the right to refer to, conduct discovery with reference to, or offer into evidence at the time of trial any and all facts, documents and things which, he does not presently recall, but may recall at some time in the future.

Defendant objects to the disclosure of information that is protected by the attorney-client privilege, the work product doctrine or any other applicable privilege. To the extent that the Defendant inadvertently discloses information that may be protected from discovery under the attorney-client privilege, the work product doctrine or any other applicable privilege, such inadvertent disclosure does not constitute a waiver of any such privilege.

The information set forth below is provided without in any manner waiving (1) the right to object to the use of any response for any purpose, in this action or any other actions, on the grounds of privilege, relevance, materiality or any other appropriate grounds; (2) the right to object to any requests involving or relative to the subject matter of the responses herein; (3) the right to revise, correct, supplement or clarify any of the responses provided below, at any time. Macon County Greyhound Park, Inc. specifically reserves the right to supplement its responses herein in accordance with the Federal Rules of Civil Procedure and the local rules of this court.

**INITIAL DISCLOSURE NO. 26(a)(1)(A): The name and, if known, the address and telephone number of each individual likely to have discoverable information that Macon County Greyhound Park, Inc. may use to support its defenses, unless solely for impeachment, identifying the subjects of the information.**

**RESPONSE TO INITIAL DISCLOSURE NO. 26(a)(1)(A):**

**Eric R. Upshaw** is the Food and Beverage Director at Macon County Greyhound Park, Inc. Mr. Upshaw is knowledgeable about the cash register and is knowledgeable about the company providing software to Macon County Greyhound Park, Inc. for Cash Registry Machines. Mr. Upshaw's address is Post Office Box 128, Shorter, Alabama 36075 his telephone number is (334) 727-0540.

**Robert C. Keller** would have knowledge about his credit card transaction with Macon County Greyhound Park, Inc. Mr. Keller's address known to Plaintiff's counsel.

**Frank Russo** would have knowledge about his credit card transaction with Macon County Greyhound Park, Inc. Mr. Russo's address known to Plaintiff's counsel.

**Representative from Cash Registry Systems.** Cash Registry Systems provided software to Macon County Greyhound Park, Inc. for its cash registers.

**INITIAL DISCLOSURE NO. 26(a)(1)B:** A description by category and location of all documents, electronically stored information, and tangible things that are in the possession, custody, or control of the Macon County Greyhound Park, Inc. and that Macon County Greyhound Park, Inc. may use to support its claims or defenses, unless solely for impeachment.

**RESPONSE TO INITIAL DISCLOSURE NO. 26(a)(1)B:**

Macon County Greyhound Park, Inc. specifically reserves the right to supplement its production if additional documents are discovered. To the extent that they can be identified, only non-privileged responsive documents will be produced. These documents, which are maintained by counsel for Macon County Greyhound Park, Inc., include cash register receipts from customers during relevant time period.

**INITIAL DISCLOSURE NO. 26(a)(1)(C):** A computation of any category of damages claimed by the disclosing party, making available for inspection and copying as under Rule 34 the documents or other evidentiary material, not privileged or protected from disclosure, on which such computation is based, including materials bearing on the nature and extent of injuries suffered.

**RESPONSE TO INITIAL DISCLOSURE NO. 26(a)(1)(C):**

None.

**INITIAL DISCLOSURE NO. 26(a)(1)(D):** For inspection or copying as under Rule 34 any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment that may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment.

**RESPONSE TO INITIAL DISCLOSURE NO.26(a)(1)(D)**

None.

Respectfully submitted,

/s/ Stanley F. Gray  
Fred D. Gray (GRA22)  
Stanley F. Gray (GRA053)  
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Gray, Gray & Nathanson  
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(334) 727-4830

**CERTIFICATE OF SERVICE**

I, hereby certify that I have served a true and correct copy of the foregoing instrument upon the following electronically, via ecf.almd.uscourts.gov, this the 25<sup>th</sup> day of February 2008:

William S. Pritchard, III  
Pritchard McCall & Jones, LLC  
800 Financial Center  
505 N. 20<sup>th</sup> Street  
Birmingham, Alabama 35203-2605

/s/ Stanley F. Gray \_\_\_\_\_  
**OF COUNSEL**